

*Example 1.* At the date of A's death, his DISC stock has a fair market value of \$100. The estate does not elect the alternate valuation allowed by section 2032, and A's basis in such stock is \$60 at the date of his death. The person who acquires such stock from the decedent will take as a basis for such stock its fair market value at A's death (\$100), reduced by the amount which would have been included in A's gross income under section 995(c) as a dividend if A had sold stock on the date he died. Thus, if the amount that would have been treated as a dividend under section 995(c) were \$30, such person will take a basis of \$70 for such stock (\$100, reduced by \$30). If such person were immediately to sell the DISC stock so received for \$100, \$30 of the proceeds from the sale would be treated as a dividend by such person under section 995(c).

*Example 2.* Assume the same facts as in example (1) except that the estate elects the alternate valuation allowed by section 2032, the DISC stock has a fair market value of \$140 on the alternate valuation date, the amount that would have been treated as a dividend under section 995(c) in the event of a sale on such date is \$50 and the DISC has \$20 of previously taxed income which accrued after the date of the decedent's death and before the alternate valuation date. The basis of the person who acquires such stock will be \$90 determined as follows:

(1) Fair market value of DISC stock at alternate valuation date .....	\$140
(2) Less: Amount which would have been treated as a dividend under section 995(c) .....	50
(3) Basis of person who acquires DISC stock .....	90

If a distribution of \$20 attributable to such previously taxed income had been made by the DISC on or before the alternate valuation date (with the DISC stock having a fair market value of \$120 after such distribution), the basis of the person who acquires such stock will be \$70 determined as follows:

(1) Fair market value of DISC stock at alternate valuation date .....	\$120
(2) Less: Amount which would have been treated as a dividend under section 995(c) .....	50
(3) Basis of person who acquires DISC stock .....	70

[T.D. 7283, 38 FR 20825, Aug. 3, 1973]

**§ 1.1015-1 Basis of property acquired by gift after December 31, 1920.**

(a) *General rule.* (1) In the case of property acquired by gift after December 31, 1920 (whether by a transfer in trust or otherwise), the basis of the property for the purpose of determining gain is the same as it would be in the hands of the donor or the last

preceding owner by whom it was not acquired by gift. The same rule applies in determining loss unless the basis (adjusted for the period prior to the date of gift in accordance with sections 1016 and 1017) is greater than the fair market value of the property at the time of the gift. In such case, the basis for determining loss is the fair market value at the time of the gift.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example.

*Example:* A acquires by gift income-producing property which has an adjusted basis of \$100,000 at the date of gift. The fair market value of the property at the date of gift is \$90,000. A later sells the property for \$95,000. In such case there is neither gain nor loss. The basis for determining loss is \$90,000; therefore, there is no loss. Furthermore, there is no gain, since the basis for determining gain is \$100,000.

(3) If the facts necessary to determine the basis of property in the hands of the donor or the last preceding owner by whom it was not acquired by gift are unknown to the donee, the district director shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the district director finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the district director as of the date or approximate date at which, according to the best information the district director is able to obtain, such property was acquired by such donor or last preceding owner. See paragraph (e) of this section for rules relating to fair market value.

(b) *Uniform basis; proportionate parts of.* Property acquired by gift has a single or uniform basis although more than one person may acquire an interest in such property. The uniform basis of the property remains fixed subject to proper adjustment for items under sections 1016 and 1017. However, the value of the proportionate parts of the uniform basis represented, for instance, by the respective interests of the life tenant and remainderman are adjustable to reflect the change in the relative values of such interest on account of the lapse of time. The portion

of the basis attributable to an interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014-5. In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in § 1.1001-1(f)(2)) the adjusted basis of which is determined pursuant, or by reference, to section 1015, that part of the adjusted uniform basis assignable under the rules of § 1.1014-5(a) to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and § 1.1001-1(f).

(c) *Time of acquisition.* The date that the donee acquires an interest in property by gift is when the donor relinquishes dominion over the property and not necessarily when title to the property is acquired by the donee. Thus, the date that the donee acquires an interest in property by gift where he is a successor in interest, such as in the case of a remainderman of a life estate or a beneficiary of the distribution of the corpus of a trust, is the date such interests are created by the donor and not the date the property is actually acquired.

(d) *Property acquired by gift from a decedent dying after December 31, 1953.* If an interest in property was acquired by the taxpayer by gift from a donor dying after December 31, 1953, under conditions which required the inclusion of the property in the donor's gross estate for estate tax purposes, and the property had not been sold, exchanged, or otherwise disposed of by the taxpayer before the donor's death, see the rules prescribed in section 1014 and the regulations thereunder.

(e) *Fair market value.* For the purposes of this section, the value of property as appraised for the purpose of the Federal gift tax, or, if the gift is not subject to such tax, its value as appraised for the purpose of a State gift tax, shall be deemed to be the fair market value of the property at the time of the gift.

(f) *Reinvestments by fiduciary.* If the property is an investment by the fiduciary under the terms of the gift (as, for example, in the case of a sale by the fiduciary of property transferred under the terms of the gift, and the reinvest-

ment of the proceeds), the cost or other basis to the fiduciary is taken in lieu of the basis specified in paragraph (a) of this section.

(g) *Records.* To insure a fair and adequate determination of the proper basis under section 1015, persons making or receiving gifts of property should preserve and keep accessible a record of the facts necessary to determine the cost of the property and, if pertinent, its fair market value as of March 1, 1913, or its fair market value as of the date of the gift.

[T.D. 6500, 25 FR 11910, Nov. 26, 1960, as amended by T.D. 6693, 28 FR 12818, Dec. 3, 1963; T.D. 7142, 36 FR 18952, Sept. 24, 1971]

#### **§ 1.1015-2 Transfer of property in trust after December 31, 1920.**

(a) *General rule.* (1) In the case of property acquired after December 31, 1920, by transfer in trust (other than by a transfer in trust by a gift, bequest, or devise) the basis of property so acquired is the same as it would be in the hands of the grantor increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made. If the taxpayer acquired the property by a transfer in trust, this basis applies whether the property be in the hands of the trustee, or the beneficiary, and whether acquired prior to the termination of the trust and distribution of the property, or thereafter.

(2) The principles stated in paragraph (b) of § 1.1015-1 concerning the uniform basis are applicable in determining the basis of property where more than one person acquires an interest in property by transfer in trust after December 31, 1920.

(b) *Reinvestment by fiduciary.* If the property is an investment made by the fiduciary (as, for example, in the case of a sale by the fiduciary of property transferred by the grantor, and the reinvestment of the proceeds), the cost or other basis to the fiduciary is taken in lieu of the basis specified in paragraph (a) of this section.